REMARKS

Claim Rejections

Claims 17-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McNabb in view of McGrath, Jr. '793 and Huang '262, all of record. Claims 24 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Rudys et al. of record. Claim 25 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Birdsell, of record. Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Nishiyama, of record. Claims 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Sage, of record.

Drawings

It is noted that the Examiner has approved the proposed drawings.

New Claims

By this Amendment, Applicant has amended claims 17 and 19 and, also, added new claim 30 to this application. It is believed that the new and amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112 (*See, e.g.,* Fig. 1-3, 7-9 regarding the circular rings corresponding to a first and second vehicle half; *See, also,* Fig. 11-12 regarding folding the cover into three superimposed rings), and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The claims are directed toward a protective cover assembly selectively movable between open and closed positions and having, *inter alia*, a first ***circular*** ring configured ***to support the cover over a front half of the motor vehicle*** and a second ***circular*** ring configured ***to support the cover over a back half of the motor vehicle***. The claims are also directed towards a cover assembly having at

least two annular sleeves, ***each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve*** and spaced apart from the periphery of the cover. Furthermore, dependent claim 30 recites a protective cover "wherein the at least two metal rings are configured to be aligned and ***folded into three smaller superimposed loops*** when the cover is in the closed position." *Emphasis added.*

The primary reference to McGrath, Jr. teaches a vehicle cover including a fabric cover (12), a single rod (30) which gives the cover an oval shape when open, clamps (38, 44), and straps (24) with clamps (28). The cover is closed by twisting the large, bulky oval-shaped cover into a figure-eight to form two circles.

McGrath, Jr. does not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, McGrath, Jr. also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

The secondary reference to McNabb teaches a cover having extensions (18) and metal rims (20), and straps (22). It is important to note that metal rims 20 taught by McNabb are neither circular, nor are any of the rims configured to cover more than a small fraction of the vehicle.

McNabb does not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, McNabb also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

The secondary reference to Huang teaches a sunshade having a sheet (12), a narrow strip (26) connected to the sheet (12), and a spring like strip (14) with a connector (16) positioned therein.

Huang does not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, Huang also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

The Examiner has argued on p. 4 of the most recent Office Action that both Huang and McNabb teach rings which are spaced from the periphery. However, the Examiner has failed to indicate that either of these references teach or suggest that the at least two annular sleeves are ***also*** spaced apart from an adjacent annular sleeve.

The secondary reference to Rudys et al. teaches a cover having elastic attached to an edge (63, 76).

Rudys et al. do not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, Rudys et al. also do not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

The secondary reference to Birdsell teaches a load conformable tarp and is cited for teaching an adjusting buckle.

Birdsell also does not teach a protective cover assembly having a first circular ring configured to support a cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor

vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, Birdsell also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position

The secondary reference to Nishiyama teaches a protective cover and is cited for teaching a locking element body (25) having a slot (29) and a locking portion (27).

Nishiyama also does not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, Nishiyama also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

The secondary reference to Sage teaches a tow shield and is cited for teaching a storage bag (70).

Sage also does not teach: a protective cover assembly having a first circular ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; or a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover. Furthermore, Sage also does not teach a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

Even if the teachings of McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, and Sage were combined, as suggested by the Examiner, the resultant combination does not suggest: a protective cover assembly having a first circular

ring configured to support the cover over a front half of the motor vehicle and a second circular ring configured to support the cover over a back half of the motor vehicle; a cover assembly having at least two annular sleeves, each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; or a protective cover having two or more metal rings configured to be aligned and folded into three smaller superimposed loops when the cover is in a closed position.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

> The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

> As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

> We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, or Sage that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, nor Sage disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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